

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GREGORY PEARCE, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

MARK KARPELES, an individual,

Defendant.

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CIVIL ACTION

No. 18-00306(RK)

**DEFENDANT MARK KARPELES' MOTION TO DISMISS
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)(2)**

Defendant Mark Karpeles contests that this Court has personal jurisdiction over him in these proceedings. Mr. Karpeles submits this Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(2). Pursuant to Federal Rule of Civil Procedure 12(b)(2), this case must be dismissed against Mr. Karpeles based on the lack of personal jurisdiction. The Court must determine this threshold issue before any further proceedings occur. In support of this Motion, Mr. Karpeles states as follows:

1. Mr. Karpeles, an individual, is a citizen of France living in Japan.
2. Mr. Karpeles does not have the necessary "minimum contacts" with this forum such that "maintenance of the suit does not 'offend traditional notions of fair play and substantial justice.'" *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945).
3. Mr. Karpeles has not "purposefully directed his activities at the forum state or purposefully availed himself of the privilege of conducting business in that state" nor does the

“alleged injury [arise] out of the defendant’s forum-related activities.” *Burger King Corp. v. Rudzewicz*, 417 U.S. 462, 472 (1985).

4. Plaintiff merely asserts the legal conclusion that this Court has jurisdiction over Mr. Karpeles because “[he] conducts business in this District and the unlawful conduct alleged in the Complaint occurred in, was directed to, and/or emanated from this District.” (Compl. ¶7 [Dkt. No. 1].) Plaintiff does not allege any personal activities of Mr. Karpeles, such as conducting his own business, in any of this District, the Commonwealth of Pennsylvania and the United States, or any specific activities of Mr. Karpeles.

5. Plaintiff bears the burden of establishing personal jurisdiction. *Isaacs v. Trustees of Dartmouth College*, Civ. No. 13-5708, 2014 WL 4186536, at *5 (E.D. Pa. Aug. 25, 2014). Blanket, conclusory assertions that this Court has personal jurisdiction are insufficient to meet this burden. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.”).

6. Mr. Karpeles expressly asserts that this Court lacks personal jurisdiction over him and preserves this objection and argument for all purposes.

7. Because this Court lacks personal jurisdiction over Mr. Karpeles, this proceeding against him must be dismissed with no further actions taken.

8. Mr. Karpeles requests that, if there is any question about the Court’s lack of personal jurisdiction over him, the Court enter a briefing schedule for Mr. Karpeles to further support his position.

WHEREFORE, for all of the reasons stated above, those in any further written submissions to the Court, and in any oral argument, Defendant Mark Karpeles respectfully requests that this Court:

- A. Grant this Motion to Dismiss these proceedings against him with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(2) for lack of personal jurisdiction;
- B. In the alternative, set a briefing schedule on this Motion to Dismiss and continue it to a later date;
- C. Subject to his continuing objection that this Court lacks personal jurisdiction over him, conduct no further proceedings in this matter until the issue of personal jurisdiction has been decided; and
- D. Grant all other just relief.

Respectfully submitted,

CIARDI CIARDI & ASTIN

Date: 4/18/19

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